The Board of Zoning Appeals of the City of North Royalton
met on **July 22, 2014** to hold a Public Hearing in
the Council Chambers at 13834 Ridge Road.

The meeting was called to order by Chairman Dan Kasaris at 7:00 p.m.

Present: Chairman Dan Kasaris, Robert Jankovsky, Victor Bull, Dale Gauman, Anthony Rohloff, Assistant Law Director Donna Vozar, Building Commissioner Dan Kulchytsky, Secretary Diane Veverka.

Moved and seconded **to approve the Minutes from May 27, 2014 as submitted.**
Roll call: **Yeas: Five** (Mr. Kasaris, Mr. Jankovsky, Mr. Bull, Mr. Gauman, Mr. Rohloff).
Nays: None. Minutes approved.

Public Hearing / Open Meeting

New Business:

(BZA14-09) Presley Connolly requests a variance to **Chapter 1270 "Residential Districts", Section 1270.12 "Yards for Accessory Buildings and Uses", Paragraph (b) "Accessory Building Locations in R1-A and R1-B Districts"**, of the City of North Royalton Zoning Code. Request is for a **variance of 12 feet to allow for relief from the minimum 20 foot distance to dwelling requirement for his shed** that is proposed at **11001 Drake Road**, also known as **PPN:484-15-003**, in a RRZ (Rural Residential district).

Presley Connolly, 11001 Drake Rd, stated he needed a variance because the house sits close to the rear property line. He would like to add a shed onto his property to store the patio furnishings, etc. Mr. Kulchytsky provided photos (Exhibit BZA14-09A) of the applicant's property showing the rear patio which is where he is proposing to place the shed. Mr. Kulchytsky added that the house is a lot at the intersection of two streets and is a diamond shaped configuration and the house is placed oddly on the lot. Mr. Connolly said there is no other place on the property that it could be located due to the drainage swale across the side and back of the property. The proposed prefabricated resin shed is 8 ft. x 8 ft. Mrs. Theresa Connolly stated to the Board that the shed is actually 8 ft. x 10 ft.

Mr. Frank Ortega, 17874 Bennett Rd., spoke in favor of the improvements he has made to the property and added that the small shed would not detract from the neighboring houses and would enhance the property.

Moved by Mr. Rohloff, seconded by Mr. Gauman to amend the motion stating the shed should be no larger than 8 ft. x 10 ft.
Roll call: **Yeas: Four** (Mr. Kasaris, Mr. Jankovsky, Mr. Rohloff, Mr. Gauman). Mr. Bull abstained. **Nays: None. Amended motion approved (4-0).**

Moved by Mr. Jankovsky, seconded by Mr. Rohloff to approve **a variance of 12 ft. less than the minimum required distance for the placement of the proposed manufactured resin shed, no larger than 8 ft. x 10 ft., in the back corner of the concrete patio.**
Roll call: **Yeas: Four** (Mr. Kasaris, Mr. Jankovsky, Mr. Rohloff, Mr. Gauman). Mr. Bull abstained. **Nays: None. Variance approved (4-0).**

(BZA14-10) Benjamin Lanza requests a variance to **Chapter 1270 "Residential Districts", Section 1270.04 "Area, Yard and Height Regulations", Paragraph (g) of the City of North Royalton Zoning code.** Request is for a **variance of 9 feet to allow for relief from the maximum 15 foot height restriction for an accessory building** that is proposed at **11330 Villa Grande Drive**, also known as **PPN:488-12-018,** in a R1-A district,

The applicant Benjamin Lanza stated he is making this request because he is an artist and would like to have a wood working shop on the first level and an art studio on the upper level. He added that this is not a business. Mr. Kulchytsky clarified that

this is considered a home occupation. If the home occupation doesn't impact the area by additional vehicular traffic, deliveries, need for parking, additional pedestrian walk-in business, it is acceptable. Mr. Lanza said he sells some of his paintings at shows. He added that he is on a wooded lot and is attempting to keep the square footage on the lot small and needs to go higher to achieve more natural sun light for painting. When asked if he plans on putting any signs up, Mr. Lanza replied, "No." When asked about the shed currently located on the back of his property, Mr. Lanza clarified that the shed will be taken down because the proposed structure is going to be located in the same area. Mrs. Vozar stated that since he has agreed to remove the shed, there will only be one accessory structure on the property so it will be compliance with the code and no additional variances will be necessary.

Moved by Mr. Jankovsky, seconded by Mr. Bull to **grant a variance of 9 ft. more than the maximum height allowed for an accessory structure per section 1270.04 (g) of the zoning code be approved with the provision that the existing shed be removed.**
Roll call: **Yeas: Five** (Mr. Kasaris, Mr. Jankovsky, Mr. Bull, Mr. Rohloff, Mr. Gauman). **Nays: None. Variance approved (5-0).**

(BZA14-11) **Robert Kucharski** requests a variance to **Chapter 1270 "Residential Districts", Section 1270.14 "Landscape Features, Fences, Walls", Paragraph (c)** of the city of North Royalton Zoning Code. Request is for a **variance of 14 feet to allow for relief from the minimum 21 foot required setback for a fence** that is proposed at **6633 Tudor Circle,** also known as **PPN:489-11-033** in a R1-A district.

Danielle Kucharski, 6633 Tudor Circle, stated the applicant is requesting a 14 ft. variance to install a 4 ft. ornamental aluminum fence along the sidewalk side of an established row of pine trees on Parliament Drive to contain their dogs. She added that the fence would end 20 ft. before the driveway. Mr. Kulchytsky explained that this request is a rather unique situation in terms of our corner requirements for fencing. The corner requirement for fencing was established to maintain site lines and to line up with adjacent residences. In this particular instance, the adjacent resident is far away and faces Wallings Road. He added the mature set of pine trees would need to be taken down if the fence was placed in the location that is required by the code.

The applicant explained where the proposed fence would be located and where it would connect to the existing fence toward the inside of the utility boxes. Mr. Kasaris referenced (Exhibit BZA14-11A) picture of the backyard. (Exhibit BZA14-11B) shows a profile view of a row of trees. Mr. Rohloff questioned if the fence were placed inside the line of pine trees would it then be in code. The applicant stated it would not be in code; they would still require a 4 ft. variance. Mr. Jankovsky stated that he had an opportunity to visit the site and feels that the applicant's request has merit and he supports the variance.

Moved by Mr. Jankovsky, seconded by Mr. Bull to **grant a variance of 14 ft. less than the required side yard setback line for the proposed fence per section 1270.14 (c) of the zoning code be approved.**
Roll call: **Yeas: Five** (Mr. Kasaris, Mr. Jankovsky, Mr. Bull, Mr. Rohloff, Mr. Gauman). **Nays: None. Variance approved (5-0).**

(BZA14-12) **Conrad's Tire Realty Company, the owner of Conrad's Tire Express & Total Car Care,** requests a variance to **Chapter 1281 Traditional Town Center District", Section 1281.07 (a)(A)(3)(b) "Schedule of Yard and Setbacks",** of the City of North Royalton Zoning Code. Request is for a **variance of 3 ft. more than the minimum required side setback requirement from non-residential zoning district property** to allow for a proposed **2-bay carwash** located at **5118 Royalton Road,** also known as **PPN:488-19-013** located in a TCD district.

Robert Orovets with ThenDesign Architecture and Dominic Umek, General Manager for Conrad Tire Group, and their Civil Engineer John Urbanick of Greenland

Engineering addressed the Board on behalf of this applicant. Mr. Orovets explained Conrad's Tire has started a new program which includes adding a carwash to some of their facilities. He stated that they would like to put a 2-bay car wash facility on the side of the building and are asking for a variance of 3 ft. more than the minimum 5 ft. side yard requirement. Mr. Umek added that they are looking to expand their business for their existing customers as well as the community in general. He stated they are making additional enhancements to the front of the facility as well as upgrading the storm water management system. Mr. Urbanick addressed the flooding issues which have been plaguing his business as well as other businesses and apartments adjacent to their building. He said the current storm structures are not substantial enough; this will be a significant upgrade to the storm sewer infrastructure. He said that the system of added underground storage units will hold the water and release it at a much slower rate. The water from the carwash will go out to the sanitary sewer system. The use itself will generate significantly more sewage flow than it does currently.

Mr. Kulchytsky clarified that this project is still going to be presented to the Planning Commission at which point the city engineers and the Building Department will review details for storm water management also the sizing of the sanitary line. He added that it would be doubtful that a permit would be issued if they did not comply. Mr. Urbanick said he understands that if they choose to move forward on the project and the city makes that a condition because of the need; they agreed that they would do so.

Mr. Orvets explained the overall general improvements to the building's appearance. He stated it will be a fully automated system with self-serve kiosk and touch less car wash. It will be operating 24/7, 365 days/year. He reiterated that Conrads will comply with any storm water management issues and they will improve the existing conditions of what is happening now. Mr. Umek said it was made very clear to them from the beginning by Mr. Kulchytsky what was necessary for storm water management. Mr. Umek said he does not anticipate any traffic issues because of the planned design of stacking lanes in the back of the facility.

Paul Marnecheck, Ward 4 Councilman, expressed his concern regarding the flooding issues at the condos to the west of Conrad's property. He asked the Board to ensure that these changes will not negatively impact the property owners' current situation. He said he is in support of the variance approval.

Mr. Kulchytsky reiterated that we stressed early in the process that storm water management is a priority for that site. They did commit at that time to improve the storm water management to the site which brings it into 2014 standards for the entire site. He added that the exterior improvement to the structure is also a benefit.

Moved by Mr. Jankovsky, seconded by Mr. Bull to **grant a variance of 3 ft. more than the minimum required side setback requirement for non-residential zoning district property to allow for proposed 2-bay car wash as per section 1281.07(a)(A)(3)(b) of the zoning code be approved.**
Roll call: **Yeas: Five** (Mr. Kasaris, Mr. Jankovsky, Mr. Bull, Mr. Rohloff, Mr. Gauman). **Nays: None. Variance approved (5-0).**

(BZA14-13) **David Chernow** requests a variance to **Chapter 660 "Safety, Sanitation and Health", Section 660.14 "Weeds and Grass" Paragraphs (a) and (b)** of the City of North Royalton Zoning Code. Request is for **relief from the requirement to keep the property free of noxious weeds, grass and woody vegetation** at a minimum of 50 feet from dwellings, buildings, structures or public roadways including ditches and tree lawns on the property located at **10813 Ridge Road**, also known as **PPN:489-10-015**, in a R1-A district.

Mr. Kasaris addressed the Board and applicant and stated that he had reviewed this variance request with the Assistant Law Director prior to today's meeting. He stated that our code does not permit variances from the "Safety, Sanitation and Health" code. Ms. Vozar stated that this code is not a zoning code which is where the

variances are permitted. She clarified that the appeal is not on the citation; the appeal is on an order/decision of the Building Commissioner regarding the grass cutting. City Council has spoken when it enacted the ordinance on the health and safety reasons for imposing the standard and as such this Board will be reviewing whether or not the Building Commissioner's decision complies with the standards as set forth under **1264.04(e).** Mr. Kasaris read the ordinance aloud. He stated that the applicant is able to appeal a decision of the Building Commissioner. The Building Commissioner has cited the applicant for high grass and the applicant is challenging that citation. Mr. Kasaris asked the applicant if he understands the ordinance and if he wishes to proceed with an appeal to the Building Commissioner's decision. The applicant responded "Yes."

Mr. Chernow stated that his living situation has diminished; he is trying to be proactive and solve an issue with the noise pollution from the increased traffic, including trucks and emergency vehicles on Ridge Road. He said over the past two years he has lost eight old growth trees in the front yard. He said he is trying to create a noise barrier and visual barrier by replacing the trees that have died. He said he is trying to turn it into a natural area. He presented pictures of his front yard (Exhibit A-G). He said that he has planted 10 hemlocks in that area. He added that it is hard to maintain them and keep them watered. He would like to take it from a meadows succession into a forest area to block the road.

Mr. Rohloff asked the applicant for a time line for his plan. The applicant said he is in the second year of his three year plan. He said he is trying to make it aesthetically pleasing. He said he brought it back 35 ft. away from the road.

Mr. Kulchytsky stated that he posted on the door of this residence a notice to cut the grass within 5 days or the grass would be cut by our city sub-contractor. He said at that time the grass was well-over six inches in height. Currently there are areas that are over two feet, it varies. He said the applicant then came in to appeal these actions. Mr. Kulchytsky said the applicant is permitted to plant as many trees as he wishes. He needs to follow the ordinance and keep the area free of noxious weeds, grass and woody vegetation and anything over six inches shall be cut, if not by the owner then by the city's forces.

Dan Langshaw, Ward 3 Councilman, asked to have exhibit (BZA14-13G) added to the records. Mr. Langshaw stated that he contacted the City Engineer and found there was no record or correspondence of flooding issues at this property or adjacent properties. He feels the applicant is in violation of city ordinance and urges the Board to uphold the Building Commissioner's decision and deny the appeal.

Kathy Capka, 10747 Ridge Road, expressed her concern regarding property values, problems with animals and the appearance of a vacant home. The clerk read an affidavit from Elaine Bebenroth, 10806 Ridge Road, stating she disapproved and did not feel that the request for a variance should be granted. Mr. Jankovsky felt if the Building Commissioner's decision was not upheld, it would create precedence and many residents would choose to not cut their grass.

Mr. Kasaris said the Building Commissioner is charged with enforcing this ordinance and his conduct here has been nothing but enforcing the ordinance that City Council passed. He added that he is not abusing his authority. **Mr. Kasaris made the findings that the Board has not found any gross abuse of authority or fraud or collusion. He added a "Yes" vote would reverse the decision of the Building Commissioner; a "No" vote would uphold the decision.**

Roll call: **Yeas: None. Nays: Five** (Mr. Kasaris, Mr. Bull, Mr. Rohloff, Mr. Gauman, Mr. Jankovsky). **Appeal denied (5-0).**

(BZA14-14) **Michael & Eileen Malloy** request a variance to **Chapter 1270 "Residential Districts", Section 1270.14 "Landscape Features, Fences, Walls", Paragraph (c)** of the City of North Royalton Zoning Code**.** Request is for a **variance of 23 feet to allow for relief from the minimum 25 foot required setback for a**

fence that is proposed at **4323 Eagle Point,** also known as **PPN:488-22-069**, in a R1-A district.

The applicant, Michael Malloy, stated that they would like to put a 5 ft. ornamental fence around his back yard. He said they live on a corner lot at the beginning of a cul-de-sac of five homes. He said that area is the flattest part of their back yard. If he did not request a variance, his fence would be located at the beginning of the swale. He is requesting a 5 ft. fence to try to keep out some of the deer. He stated that the HOA has no restriction of fencing.

Mr. Kulchytsky addressed the Board regarding the two documents, submission of the plats provided by the applicants locating his lot and a recent picture of the applicant's yard (Exhibit BZA14-14A). He stressed to the Board about the unique configuration of his parcel. He is on a corner lot so he has to comply with our corner lot rules; however, he is on a cul-de-sac and does not have residents to the side. The request for the variance would enclose his yard which is very exposed to access of animals and others. The clerk stated that proper notification was mailed. Paul Marnecheck, Ward 4 Councilman, spoke in favor of granting the variance for this applicant.

Moved by Mr. Jankovsky, seconded by Mr. Bull to **grant a variance of 23 ft. less than the required side yard setback line for the proposed fence per section 1270.14 (c) of the zoning code be approved.**
Roll call: **Yeas: Five** (Mr. Kasaris, Mr. Jankovsky, Mr. Bull, Mr. Rohloff, Mr. Gauman). **Nays: None. Variance approved (5-0).**

(BZA14-15) **David & Jenna Erne** requests a variance to **Chapter 1270 "Residential Districts", Section 1270.19 "Dwelling Unit Area Requirements", Paragraph (d) "Area of Garage",** of the city of North Royalton Zoning Code. Request is for a **variance of 644 square feet** more than the maximum square footage allowed for the proposed **attached garage**, approximately 38 ft. x 37 ft. in size, located at **4600 Wiltshire Road**, also known as **PPN:486-24-006**, in a RRZ.

David Erne and Jenna Erne, 4600 Wiltshire Road, is requesting a variance of 644 square feet for storage issues and additional indoor parking area. They stated the home was purchased two years ago without a garage; we are currently storing our stuff elsewhere. He said he would also use the structure to house his sport vehicles and their trailers. Mr. Erne stated that there are other structures in the neighborhood that are the same or bigger than the proposed structure. The structure will be connected by a 5 ft. walkway between the structure and the house. The proposed structure is approximately 38 ft. by 37ft., larger than a 3-car garage.

Mr. Kulchytsky said the proposed structure is in character with the Rural Residential District. Mr. Kasaris questioned the difference in the variance size of 640 sq. ft. versus 644 sq. ft. The clerk clarified the difference would be due to the calculation of the walkway. Mr. Kulchytsky said the Engineering Department would require that the structure be tied in to the storm systems that exist on that property.

An affidavit was submitted by Gary & Darlene Czapor, 4524 Wiltshire Road. It was read by the Clerk. In the affidavit, Mr. & Mrs. Czapor expressed their concerns of the size of the proposed massive structure and lack of a sufficient buffer between their house and the structure. They also questioned whether it should be considered a detached garage. The statement also expressed their position that there is no extenuating circumstance, such as ravine, wetland, etc., that would prevent them from building an accessory building at the back of their 2-acre property. The document also stated that the value of their (Czapor) house would suffer as a result of the variance. Mr. and Mrs. Czapor who were in attendance stated they have no problem with a 4-car garage but this building is equivalent to an 8-car garage with 10 ft. doors. He said he has a problem with the location of the building; they can build another structure for storage to the rear of the property.

An affidavit was also submitted by Jack and Peggy Grimmett, 4490 Wiltshire. It stated that "I feel the Building Department should make these decisions and not have neighbors fighting against each other. You have the building codes and should advise applicants of their chances of obtaining what they are asking for. I am against granting this request. It is almost twice as big as the present code allows and I would disagree that it meets the definition of attached garage. I feel the size and height of building is not suitable for residential area."

Mr. Kulchytsky said there is no definition in our codified ordinances that clearly states what would define an attached or detached garage. He said that with his understanding as an architect, he would treat this as an attached garage due to the roofs being physically attached. He said the County, for tax purposes, may have a different definition. He said the definition of a "Detached building" in section 1260.07(f)(5) is subject to interpretation by the Building Commissioner. Mrs. Vozar agreed that we are considering this structure an attached garage. Mr. Kulchytsky clarified that if it were considered a detached garage, the original variance would remain, but an additional variance would be required for the height of the structure. He added that our code is written in such a fashion that there are two factors that have to be considered: the amount of acreage and the size of the primary living structure. Mr. Kulchytsky addressed the size of the garage and said if the cars are stacked two deep, it could fit six cars. A standard 3-car garage would be approximately 40 ft. x 24 ft.

Mr. Kasaris asked for clarification to why the applicant needs such a large building and if they would consider reducing the size. The applicants said he can only afford one structure and would prefer to do one structure on their property. They also stated that the appearance of the structure will match the house with matching dormers, siding and brick. They said the garage will be used only for their personal equipment and vehicles. Mr. Erne said he would consider reducing the size to 38 ft. x 31 ft. cutting the variance in half.

David Erne, Sr., 4924 Royalwood Drive, said he feels if the structure were reduced by 6 feet of a wall line, neither party would be happy. He clarified that the height matches the roof line. He added that the neighbor's house currently towers over the applicant's house by approximately 5-8 feet.

Mrs. Vozar asked the applicant if he would like to amend his variance request to 1,178 sq. feet thereby needing a variance of 378 sq. ft. She said if you choose not to we will vote on the variance as submitted. Mr. Erne said he did not want to amend his request. Mr. Rohloff, Mr. Jankovsky and Mr. Kasaris said they were not in favor of the variance.

Moved by Mr. Jankovsky, seconded by Mr. Bull to **requests a variance of 644 square feet more than the maximum square footage allowed as described in Section 1270.19 (d) of the Zoning Code regarding the size of the proposed attached garage be approved.**
Roll call: **Yeas: None. Nays: Five** (Mr. Kasaris, Mr. Jankovsky, Mr. Bull, Mr. Rohloff, Mr. Gauman). **Variance Denied (0-5).**

(BZA14-16 Variance #1) **Neeraj Chandhok** requests a variance to **Chapter 1270 "Residential Districts", Section 1270.05 "Schedule of Area, Yard and Height Regulations"** of the city of North Royalton Zoning Code. The applicant is requesting relief from the minimum side yard setback requirement for a proposed accessory building at **10382 Yorkshire Way**, also known as **PPN:481-23-080**, in a R1-B zoning district.

The applicant, Neeraj Chandhok requested a variance for a shed pad to be placed 3 ft. from the back and 4 ft. from the side property line. He stated that because of the swale and catch basin in the back yard, he has a large amount of water in the rear area of his property during a storm. He added that he has a small lot and the only flat area for a shed is the area he is recommending. He has acquired a letter from the Villas of Worthington HOA. He presented the Board with a picture

(Exhibit BZA14-16A) showing where the shed would be located. He said there is a common area between his rear property line and Cinnamon Lakes property line. Mr. Kulchytsky presented pictures and descriptions of the applicant's property. He surmised that because of the wet area, the higher ground for the shed does make sense in this situation.

Cullen Cottle spoke as a representative for the HOA for Cinnamon Lakes which is located directly north of Mr. Chandhok's property. He was concerned because the shed is on a corner lot and it is virtually in visual line with the front yards of the homes of Cinnamon Lakes. He went through the criteria and disagrees with the applicant's position that it does not have an impact on the community. He feels it changes the esthetics of the neighborhood. He added that Cinnamon Lakes HOA does not permit sheds of any kind and is not in support of the variance.

Mr. Kulchytsky stated that because the street is not connected to the adjacent street, he feels it is not an applicable factor to the corner lot restriction.

Dan Langshaw, Ward 3 City Councilmen, said he spoke with the Cinnamon Lakes HOA and there is no future plans to be connected; therefore, this is a unique situation due to the separation of developments with a buffer zone.

Affidavit from Kenneth Spirko, President of Cinnamon Lakes HOA, 12153 Nutmeg Lane, asked for assurance from the city of North Royalton that there will be no negative impact of drainage resulting from approving the variance request.

The applicant commented that there is a row of large pine trees along the entire street to create a visual barrier.

Mr. Jankovsky questioned the Building Commissioner about his position that this general area where the applicant wants to place his shed is probably the best place to put it. Mr. Jankovsky followed up with the question of whether placement of the shed to conform to the code would be possible without creating a problem for drainage. After reviewing the plans, Mr. Kulchytsky said it could be constructed without a variance and the swale would not be impeded. He added that it would incur a little extra cost to the construction of the foundation for the applicant. After further review of the applicant's documents, Mr. Kulchytsky informed the Board that due to a utility easement along the east property line, he would not recommend the Board entertain Variance #1 for the side yard setback.

Mr. Kasaris said we cannot allow a structure to be placed on top of a utility easement; therefore, he said he would be voting against the first variance request.

Moved by Mr. Jankovsky, seconded by Mr. Bull to **requests a variance of 4 ft. less than the required minimum side yard setback required per Section 1270.05 of the Zoning Code for the proposed accessory structure be approved.**
Roll call: **Yeas: None. Nays: Five** (Mr. Kasaris, Mr. Jankovsky, Mr. Bull, Mr. Rohloff, Mr. Gauman). **Variance Denied (0-5).**

(BZA14-16 Variance #2) **Neeraj Chandhok** requests a variance to **Chapter 1270 "Residential Districts", Section 1270.12 "Yards for accessory Buildings and Uses", Paragraph (b) "Accessory Building Locations"** of the city of North Royalton Zoning Code. The applicant is requesting relief from the minimum rear yard setback requirement for a proposed accessory building at **10382 Yorkshire Way**, also known as **PPN:481-23-080**, in a R1-B zoning district.

Mr. Kasaris felt this is not a substantial variance and it is the minimum necessary to make possible reasonable use of the land. The essential character of the neighborhood will not be altered due to the buffer of trees between the subdivisions. There are special conditions and circumstances that exist which are peculiar to this land. Drainage issues will not be affected by the placement of the structure. These reasons would be the findings for the Board for Variance #2.

Moved by Mr. Jankovsky, seconded by Mr. Bull to **requests a variance of 7 feet less than the required minimum rear yard setback required per Section 1270.12 (b) of the Zoning Code for the proposed accessory structure be approved.** Roll call: **Yeas: Four** (Mr. Kasaris, Mr. Bull, Mr. Rohloff, Mr. Gauman). **Nays: One** (Mr. Jankovsky). **Variance approved (4-0).**

(BZA14-08) GT Investments, LLC, George Troicky, and York Delta Parking is appealing the Decision of the Building Commissioner as set forth in Codified Ordinance Sections 1264.01(b) and 1486.05. The applicant is appealing the Building Commissioner's decision that the nonconforming use and occupancy, consisting of a storage business (semi-truck, semi-trailer, truck, boats, etc.) does not comply with the "Use Regulations for General Industrial Districts" as described in Section 1278.04. Furthermore the applicant is appealing Building Commissioner's decision that the certificate of occupancy must be obtained as a condition precedent to the occupancy and/or use of a building, structure and/or land as set forth by Codified Ordinance 1446.02. The property is located at **12662 York Road, also known as PPN: 483-14-008,** in a General Industrial District.

David Leneghan, Council for the appellate GT Investments and George Troicky and Natashia Troicky, stated that they are appealing two issues: the first is that an occupancy permit is required; the second is that it is a non-forming use. He stated their position about the occupancy permit is that they believe there has been no change of use and do not need one. However, they have applied for an occupancy permit. He suggests the Board let that permit run its course and continue or adjourn this to another time where the Board would waive any time before they would need to come back and argue that. He feels the change in use would become a mute issue that would not have to be decided. He stated that he has public records from the prior tenant and owners that it is the same type of use. He added the non-conforming use issue would run itself in the same course with the occupancy permit. He said he met with the Law Director and the Assistant Law Director. He said that the Mr. Troicky and two of the other tenants have applied for an occupancy permit. Mr. Leneghan clarified that they are not requesting a variance because they believe it was a permitted use. Mr. Kasaris asked Mr. Leneghan, if we went forward on something in our next meeting would it be an appeal of the Building Commissioner's decision. Mr. Leneghan said yes, that is correct.

Mr. Kasaris agreed that it would be best to let the occupancy permit process work its way through and see where that goes. He said asked if he would agree to continue the matter until our next scheduled meeting or no later than September 30, 2014. Mr. Leneghan replied, Yes.

Mrs. Vozar said he did have discussion with Council beforehand and it was clarified at that time that the form that was submitted which contained the reference to the variance, was based on the fact they went on line to see what was available and used that form. She added that the only thing before the Board is the appeal; there is no variance request. The Board will just be moving forward at the next hearing on the appeal and Ms. Vozar recommended that we continue this at that time.

Moved by Mr. Bull, seconded by Mr. Jankovsky to **continue / table this matter until our next scheduled meeting which will be no later than 9/30/14.**
Roll call: **Yeas: Five** (Mr. Kasaris, Mr. Rohloff, Mr. Jankovsky, Mr. Bull, Mr. Gauman). **Nays: None. Motion carried.**

Adjournment:

Moved by Mr. Rohloff, seconded by Mr. Bull to **adjourn the BZA meeting for July 22, 2014.** Roll call: **Yeas: Five** (Mr. Kasaris, Mr. Rohloff, Mr. Jankovsky, Mr. Bull, Mr. Gauman). **Nays: None. Motion carried.**

Meeting adjourned at 10:10 p.m.

APPROVED: /s/ Dan Kasaris DATE APPROVED: October 28, 2014
CHAIRMAIN

ATTEST: /s/ Diane Veverka
B.Z.A. SECRETARY